

Smith Commission for Further Devolution of Powers to the Scottish Parliament

- The Convener (Bruce Crawford):

Good morning and a very warm welcome to everyone to the sixth meeting of the Devolution (Further Powers) Committee.

We have an apology from Stewart Maxwell; Bill Kidd is his substitute. Tavish Scott is running a little behind schedule, but I know that he is coming.

I am delighted to welcome such an esteemed panel of witnesses this morning: professors—I will not read out all your titles—David Bell, David Heald, Charlie Jeffery, Michael Keating and Nicola McEwen. Thank you for coming along to help us in our deliberations about the Smith commission proposals.

I will try to run the meeting a bit like a round-table discussion—although we have not set things up in that way—to get the conversation flowing. That means that there is a need for a bit of discipline on the part of all of us; members should keep their questions tight and panellists should be as concise as they can be. I will try to pull the conversation back if I feel that it is going off in a direction that it should not be taking. We will start with general questions before moving on to tax, welfare and probably some of the constitutional stuff around all that. The witnesses should assume that members' questions are for all of you, although of course you do not all need to contribute on every question.

I will kick off. To what extent do the Smith commission proposals and recommendations represent a coherent package of powers for the Scottish Parliament? How implementable are they? What challenges might we expect? Those are broad questions, but they will get us started and I am sure that members will ask supplementary questions.

- Professor Michael Keating (University of Aberdeen):

I do not think that the proposals amount to a coherent package. The fundamental problem is the circumstances in which the Smith commission was set up and the timetable that it was given, which did not allow the mature consideration, public debate, civil society input or research that would be required to put together a coherent set of proposals. We know the political circumstances in which the vow was made and the timetable that was set, which do not make for good policy making.

On the taxation side, it would have been better to think about the range of taxes that might be appropriate for the Scottish Parliament. There was an unfortunate fixation on income tax, so practically all the extra tax powers are loaded on to a single tax, which itself has various problems—I am sure that my colleagues on the panel can explain them—rather than there being a broad range of taxes, as would be more normal in devolved and federal systems.

On welfare, instead of thinking about what kind of welfare settlement might be appropriate for Scotland and what powers might be devolved to create a more coherent system, the approach was to block off pretty much all universal credit, which does not leave very much, and then to see what might be done at the edges.

Finally, the approach—this might stem from how it was negotiated among political parties—has been not to look at broad policy areas and to think about what Scotland might do, but to take existing policies and programmes and devolve little bits of them. So we have in the report, here and there, things like the extraction of and ability to change the so-called bedroom tax, because that is a sore point, and the ability to legislate for gender equality in public policy, which is a very, very small slice of a bigger policy area to do with equalities legislation.

It would have been better to have taken a little more time and to have taken the process through the next general election in order to allow people like us to do more number crunching and simulation on taxation, and to get more public input and real

public engagement. I think that the public do not understand what is in Smith, because they were not part of the process as the commission was putting together its proposals.

- Professor Charlie Jeffery (University of Edinburgh):

I will not cover the same ground as Michael Keating, although I pretty much agree with what he said. I want to deal with the question of implementability and connect that to the legislative process.

Clearly, the Smith commission proposals are set to be transformed into a draft bill in January. That will mean at least some time after its introduction in the House of Commons before the UK election, which will intervene. The Commons will then continue, the Lords will have a say and, under the precedent of the Scotland Act 2012, this Parliament will have to give its consent.

There is a challenge in terms of the opportunities that that legislative process in two Parliaments allows for questioning the content of the Smith commission proposals. Voices within the parties that signed up to the agreement have criticised it from various directions. There will perhaps be an opportunity for those criticisms to gain traction.

There is also a second dimension, which it was rumoured we would hear more about today, in the form of publication by the United Kingdom Government of a command paper on institutional reform in England. It is quite clear that a number of MPs—primarily in the Conservative Party, but some in the Labour Party—are seeking to recreate the link between progress on the Smith commission proposals and reform in England, which David Cameron initially set out on 19 September but then moved back from. I think that we will see attempts to re-establish that link. Of course, that complicates matters by connecting Scottish reform with English reform which, in itself, is hardly a matter of consensus in England.

So, in summary, there are plenty of challenges.

- Professor Nicola McEwen (University of Edinburgh):

I agree with a lot of what my colleagues have said. Building on what Michael Keating was saying, I think that we are moving away from the reserved powers model that was one of the strengths of the original devolution settlement. That increases the powers of the Parliament, but at the same time it makes Parliament more dependent in a way, because of the direct interdependencies in relation to tax and welfare policy. Managing that interdependence would create some anomalies and some constraints on policy options. There are lots of challenges.

The report is implementable and, in the implementation process, we will start to get some more substance on what the proposals actually mean, which could change things along the way. However, I do not think that it is sustainable. Politics might dictate the process of change anyway, but I think that new anomalies will emerge that increase pressure to revisit the issue and come up with something a bit more coherent.

- Professor David Heald (University of Aberdeen):

I am more sympathetic than Michael Keating is to the concentration on income tax, because I have been arguing for a long time for that to be devolved. However, throughout the referendum campaign and the coverage of the Smith commission, I have been worried about the fact that people seem to think that more powers means more

spend. It does not; it actually means a lot more risks, and the question of how those risks are managed is crucial.

The other point is that the percentage of the Scottish Parliament's spend that is actually covered by money that is notionally under the control of the Scottish Parliament has to be unpacked. Gordon Brown referred to a figure of 54 per cent and people now seem to be using a figure of 60 per cent. However, if you have no policy control over those taxes, there is in no sense genuine accountability. Fiscal accountability has to operate at the margin, and the tax powers have to be usable.

On the tartan tax, I warned of the danger of the power atrophying from non-use, which is exactly what happened. The problem with non-use is that one carries all the administrative costs without having any policy control, and I fear that parties will go into the 2016 election promising either to reduce the Scottish tax rate or not to put it above the rate in the rest of the UK.

One saw in the autumn statement the disruptive potential of what the UK Government does. This Parliament spent a long time trying to reform stamp duty land tax and to produce a property tax that would be implementable by the beginning of April, but the UK Government has basically disrupted that implementation by suddenly changing the tax in the rest of the UK. The question of the interaction between the two Parliaments is therefore crucial. The Smith package can be made to work, but one must think very carefully about the institutional arrangements. A long time ago, I proposed a territorial exchequer board; I think that we have now reached a point at which we require some institution that has the capacity to access Treasury data and which will ensure that all the relevant information gets put in the public domain immediately, and not after a long lag.

- Professor David Bell (University of Stirling):

I will not repeat what my colleagues have said, but I think that in all this it is crucial that we consider how the block grant will be adjusted in relation to the new powers that might come to Scotland. The distinction between annually managed expenditure and departmental expenditure limits will be important in that respect. I very much agree with David Heald that we need to make the workings of the whole system much more transparent, because we are still going to be relatively exposed to Treasury decisions about how the formula works in practice. Those decisions stand to make quite a difference.

David Heald has understandably drawn attention to the change to stamp duty, and to the fact that there is, arguably, some gaming going on in relation to air passenger duty and corporation tax. However, the most crucial decision that was made in the Chancellor of the Exchequer's autumn statement—at least as far as Scotland is concerned—was the continuation of ring fencing of health and education spending. Had that spending not been ring fenced and had cuts been spread across the entirety of UK departmental budgets, the Scottish budget would have been £2.5 billion less than it is going to be.

- The Convener:

I want to ask a supplementary on the last couple of points that have been highlighted, which take us into two areas that are explored in the submissions: the transparency of block grant mechanism and the Barnett formula, and the potential for gaming that David Heald mentions in his paper and to which David Bell has just referred. Can you expand on those points? If the Scottish Parliament has to set its own tax rates and agree its own policies but there is potential for disruption from elsewhere, that will be pretty significant, so we need to understand that situation and what mechanisms we need to put in place to deal with it.

- Professor Heald:

For a very long time now, I have made a good academic living out of the Barnett formula, simply because the proper information is not put in the public domain at the right time. As an example of how the block grant mechanism works and how things are determined from a comparability point of view, I am sure that members will have heard the arguments over whether the regeneration of east London as a result of the Olympics was Barnett relevant. A recent Institute for Fiscal Studies paper has argued that Scotland is currently overfunded by £1 billion because of a complicated issue related to treatment of business rates in England in the programme for communities and local government, the effects of which are said to benefit Northern Ireland and Scotland and damage Wales.

One of the worrying things about the Barnett formula is that, because the Labour Government did not maintain the system during the period in the 2000s when there was plenty of money around, Scotland has, to some extent, lost Wales. The complaints of Wales are increasingly used by London against Scotland, and to some extent against Northern Ireland.

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Without the numbers in the public domain being presented in an annual paper to all the Parliaments and Assemblies in the United Kingdom, there will always be arguments about whether there have been political fixes that are to the advantage of some or the disadvantage of others. As I told the Finance Committee recently, I do not think that the Scottish finance secretary can propose an increase in the Scottish income tax rate that brings it above the rate for the rest of the United Kingdom unless one is sure that there will not be punishment through adjustments of the block grant.

Similarly, when the Scottish Parliament had too much money in the 2000s because of Barnett consequentials coming from English health and education, it was piling up in end-year flexibility, at risk of being taken away by the Treasury. The reason why the Scottish Parliament could not use the tartan tax in a downward direction was that people feared that the Treasury would punish the Parliament by amending the block grant.

Serious tax-varying powers at a devolved level are possible only if there is confidence that there will not be secret repercussions in the grant settlement. I think that the Smith commission proposals can be made to work—as Michael Keating has said, there now needs to be proper discussion of the detail. However, they can be made to work only if there is proper transparency about how the system operates.

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- The Convener:

Mark McDonald has a supplementary question in that area. Is it specifically on the Barnett formula?

- Mark McDonald (Aberdeen Donside) (SNP):

My question touches on David Bell's comments on adjustments and relates to the current experience around the land and buildings transaction tax.

The finance secretary recently outlined his proposals for the LBTT rates. At the time, he said that he did not know for sure at that stage that they would prove to be revenue neutral, because the block grant adjustments had not yet been made clear. With only a couple of months to go until the budget has to be set, I understand that that remains unclear. The concern is that, if that kind of approach plays out for other devolved taxes, we might find ourselves in a very troubling position when it comes to trying to set rates. We might set rates before we know what the likely adjustments will be, and find out

later that the adjustments are not what we anticipated, and so we would have to make a recalculation and adjustment and face all the knock-on consequences that that could have for wider Scotland.

I am interested in your views on that and how we can overcome it.

- Professor Bell:

Inevitably, if you take on tax powers, you will take on new risks and new opportunities. That is clear. How those are mediated comes through how the block grant is adjusted. You can share some of the risks by adjusting the formula in one way or another; for example, you could adjust the block grant in relation to changes in population, which would take out the population risk. How it is done is tremendously important and really nerdy, I am afraid. It is absolutely essential to have the rules agreed far in advance so that it is done transparently, as David Heald has said, so that everyone knows where they stand.

That being the case, it is still possible, for example in relation to income tax, to have tax competition on the same tax base, such that the UK Government is taxing the incomes of people in Scotland and in the rest of the UK, and Scotland is also taxing that same tax base. There is quite a lot of literature on that issue. The same thing happens in the United States, where there are both state and federal income taxes, and most but not all states have both. The question then arises: do people end up getting overtaxed? That depends on the kinds of decisions that are made.

David Heald has taken the view that it will not be possible for the Scottish Government to increase the headline tax rates over the UK rates. It might be possible to play around with the bands, which might be seen to be less headline grabbing, but we have to be aware of the possibility that, because people are being taxed twice on the same tax base, they could end up being overtaxed.

- Professor Heald:

For clarification, I did not say that you could not alter the headline rates; I said that you could not use the headline rates unless you had certainty about what the grant repercussions would be. That was my essential point.

In response to Mark McDonald's question, I think that there are two issues. First, there are big technical issues around calculating the block grant deduction that will result from the Scottish Parliament getting a tax. That is especially the case with transactions taxes such as this property tax. I do not like transactions taxes—it would be better to have an annual tax—but I understand the political difficulty of that. There is a serious technical issue that should be addressed openly and sufficiently ahead of a decision about how it is done: in other words, how the deduction will be calculated needs to be determined sufficiently ahead of the political decision on the rates.

The second issue involves a concern that the UK Government could cut income tax rates and put up national insurance rates. The substitutability of taxes by the UK Government could put pressure on Scotland—and on Wales, if Wales gets an income tax.

The important point is that this Parliament at least tried to make a change through property transaction tax in a revenue-neutral way. What the UK Government did in the autumn statement was not revenue neutral; there was a substantial budget cost that was paid for by other taxes. When there is a narrow portfolio of taxes, that is a risk for the devolved Parliament.

- The Convener:

We have come to taxation and Barnett very quickly—quicker than expected—but that was my fault.

- Lewis Macdonald (North East Scotland) (Lab):

I have a general question, which substantially relates to tax. The issue of implementation has been touched on already. There is a report out this morning from the Auditor General for Scotland about the implementation of the Scotland Act 2012. Time is clearly not the key constraint—if it was, that would be quite surprising, because the measures have been two years in the implementation.

The Auditor General's conclusion is that the Scottish Government has done what it needed to do with regard to the legislative framework, which we have also talked about, but that the actual provision of the people, the information technology systems and so on for two relatively small tax items is not yet in place, which might have consequences. I wonder whether we can draw any lessons from that, and generally from the implementation of the 2012 act thus far, in relation to the prospect of implementing the next Scotland act.

- Professor Heald:

I do not think that implementation of taxes is ever going to be easy. One need only look at the record of HM Revenue and Customs to see that. The crucial point about the Smith commission proposals is that implementation rests with HMRC. Revenue Scotland will not have a direct implementation role in relation to the Smith commission recommendations on income tax.

For the first time in the UK, the question whether one is a Scottish resident is going to be important. One should bear it in mind that, according to the latest data that HMRC has published, 42,000 Scottish income tax payers pay 22 per cent of Scottish income tax revenues. That means that the effort that HMRC puts into implementation will be very important. One can imagine that, in the same way that the big accountancy firms have sold corporation tax avoidance schemes, they will be selling schemes either on how to avoid Scottish residence or on how to get Scottish residence, depending on what the relative tax rates are. For the credibility of the taxes, one clearly needs good implementation.

- The Convener:

Does anyone else wish to comment at this point before I come back to David Bell? We can widen out the discussion a bit.

- Professor Keating:

Implementation is absolutely critical, because we know that IT systems in such fields never work—they are always over budget and delayed, and Governments are sold systems that are too complicated and are created in order to make work for the providers. We know all this and it will happen.

The problems are exacerbated if we do things piecemeal and introduce too much complexity into the system. As Nicola McEwen was saying earlier, the interrelationship of the UK and Scottish systems in relation to tax and welfare is complicated, which is why it is important to get the principles right first. As we were saying, there is the implementation of the changes under the 2012 act, and then another change following that, but we do not know what the relationship between them will be.

It would be much better to sort out the basis first, have a proper discussion on that and then think about the implementation. That is another warning against rushing things through too rapidly in response to political events.

- The Convener:

Charlie Jeffery is nodding in agreement.

- Professor Jeffery:

I want to add to that. Davids Bell and Heald have talked about spin-over effects that can arise when the UK makes a tax decision that has a significance for taxpayers in Scotland. Another of my concerns has been touched on by the other witnesses, but I wanted to put it in a slightly different way.

When balancing the reduction of the block with the financial possibilities of new tax powers, we have to bear in mind the relationship of incentive and risk. The Scottish Parliament decision maker has to have the incentive to make a decision, and if that decision produces more revenues per capita than is the case elsewhere in the UK, the Scottish Parliament should benefit and there should not be a consequent penalty through changes to the block element. Equally—and this is much less likely—the Scottish Parliament could make bad decisions with its tax powers and end up with less tax revenue per head than elsewhere in the UK and, if so, the Scottish Parliament should bear that risk.

Getting those balances right, alongside other provisions that might produce compensation effects for asymmetric shocks that are not the fault of the Scottish Parliament decision maker, will be crucial. It is a question of principle that needs to be addressed before we get into the nerdy stuff that David Bell has been discussing. Those issues are really important, but we need to have a clear sense of principle from the outset.

- The Convener:

I will let the nerdy man come back in on that.

- Professor Bell:

As David Heald says, the key issue for HMRC has been the decision about whether individuals are Scottish taxpayers or rest-of-UK taxpayers. That work has largely been done. The marginal cost of allowing variation in rates and in bands is probably not going to be quite as difficult to achieve.

One thing that has not been discussed very much is the cost to businesses of the change in the income tax system. I guess that one thing that may have limited the changes to rates and bands was allowing the Scottish Parliament substantial powers to define taxable income. It would lead to more significant costs to the business sector, in particular, if the pay-as-you-earn system was compromised.

- Lewis Macdonald:

I have a quick supplementary question on the implementation of the 2012 act and the criticisms that have been made. We have not had the opportunity to read the detail of the criticism, but does it suggest that there is a risk of underestimating the institutional task of implementing changes, particularly those that involve the introduction of new taxes and tax powers?

- The Convener:

It would be quite useful to understand whether the greater risk lies with the Scottish Parliament or with the UK Parliament, where there may be many changes.

- Professor Heald:

There is obviously a lot of reputational risk for the Scottish Parliament if the devolved tax powers are not implemented effectively. These things are difficult because the tax and benefits systems are complex and IT systems have to cope with millions of people and transactions. One has only to look at the difficulties with universal credit to see that this is a high-risk area that one has to think about carefully. That clearly means that sufficient resources have to be put into these things and they have to be given enough time. Overoptimistic timescales driven by election cycles, say, are risky.

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- Professor McEwen:

On the delivery arrangements, the Smith report leaves it open to the Parliament to determine in those areas of devolved social security whether there should be a similar exercise in establishing a Scottish bureaucracy or whether delivery partnerships with the Department for Work and Pensions should be put in place. I have not read the Audit Scotland report that came out this morning, but from what I heard on the radio it appears mostly to be about Revenue Scotland. Clearly, there will be lessons to be learned, but there will always be trade-offs with these things.

One advantage of setting up a separate bureaucracy would be that it would give greater scope for delivery in a way that most matched policy intentions or design. Of course, that would come with costs, such as waiting on implementation to get it right or the financial costs of setting up and running that kind of bureaucracy. There are issues in that, such as where the trade-off would best lie and to what extent you think that it is an investment for the future. Are further social security powers likely to be devolved at some point in the future? If they are, the investment might be worth while

- Stuart McMillan (West Scotland) (SNP):

We have heard some interesting contributions this morning, and some interesting words such as “lack of transparency”, “gaming”, “punishment”, “secret repercussions” and “lack of cohesion”. Do the panellists think that the financial elements of the Smith proposals are workable? Does the constitutional architecture exist between Scotland and the UK Government to ensure that the financial arrangements can happen?

- Professor Jeffery:

The answer to that is: not yet, no. Page 15 of the Smith report says that there is a need to

“lay out details of the new bilateral governance arrangements which will be required to oversee the implementation and operation of the tax and welfare powers to be devolved by way of this agreement.”

Those details are not there. They need to be there and we have heard from the panellists some features of the machinery that will be needed, including regularity, transparency and a clear set of principles that will underlie the operation of such arrangements. However, those arrangements are clearly not yet in place.

- Professor McEwen:

There is a distinction to be made between constitutional arrangements and intergovernmental machinery and arrangements. There is the Joint Exchequer Committee, which is completely lacking in transparency but could perhaps be built upon. My understanding is that it has been focused on the implementation of the Scotland Act 2012, but it would need something more like a standing arrangement to oversee not just the operation of devolved areas but their relationship with what is not devolved. There would be a constant mutual dependence, in a way.

- Professor Keating:

The Smith report contains a lot of good intentions and words about co-operation and so on, but if that is not underpinned by institutions, it will not necessarily amount to very much.

What has been lacking in the debate is any appreciation of what happens in federal systems. There has been a lot of loose talk about federalism and how it is the answer, but the point about federal systems is that both levels have guaranteed powers and institutional capabilities that allow them to co-operate. Otherwise it is just one-way traffic: it is just the Treasury laying down the law and the Scottish Parliament having to accept those rules. We do not have that federal spirit at all in the United Kingdom; it has to develop.

It is difficult to talk about a bilateral UK-Scottish arrangement when other parts of the UK are putting forward their own demands and will have to be part of the process. They may not have exactly the same arrangements, but it would be very difficult to imagine a system in which there was one set of arrangements for Scotland and a completely different set of arrangements for Wales or Northern Ireland, responding to different principles and different ideas.

That shows us once again that, having settled the independence issue in the referendum, we must think about the United Kingdom as a whole. If it is just Scotland that is dealing with the Treasury, we will lose, but if the devolved Administrations around the United Kingdom are involved, we can develop some kind of federal spirit in which there is greater equality in those relationships.

- Stuart McMillan:

Therefore, with regard to an overall tax policy, there is a lack of coherence and a potential lack of respect because there is a lack of understanding of the type of federal operations that you are suggesting.

- Professor Keating:

Yes—all of those things are true. The answer is not to have new and clever institutional arrangements; the answer will come from the political domain, but the institutions must be right.

At present, it seems—going back to what David Heald and David Bell were saying—that there is a lack of transparency in the arrangements. There is not even the type of institution that we would have in a federal system that is able to say, “Here are the figures”, so we can verify that they are accurate. We would then know that both sides had the same amount of information. If there is an asymmetry of information, we do not have the federal spirit.

Most federal systems have developed mechanisms by which that sort of information can be put out in the open, so people at least know what the figures are. In Spain, which is, like the UK, halfway to a federal system, the lack of information from both sides on what they are each doing is one of the biggest problems.

- Professor Jeffery:

It would be utterly characteristic of this state for different arrangements to be produced for different parts of it, each with their own impenetrable complexities. That would be the natural *modus operandi*.

There is a challenge on this Parliament, and on this committee in preparing the Parliament’s thinking on the Smith commission powers, to situate Scotland’s debate within the wider UK and not to see it as something that is self-contained in Scotland. There are very clear links across debates. The Welsh debate about fair funding is essentially a debate about what many see as unfair funding for Scotland. The drive, which is becoming significant in English public opinion, for some kind of institutional recognition for England has an awful lot to do with perceptions about Scotland.

If we are to come to an arrangement involving a set of UK-wide transparent, regular arrangements, those debates need to be connected and reconciled as one single set of issues, and not considered as issues to be dealt with bilaterally through bespoke arrangements for each bilateral relationship.

- The Convener:

A couple of members have indicated that they want to ask a question, but Rob Gibson was the first to catch my eye.

- Rob Gibson (Caithness, Sutherland and Ross) (SNP):

Good morning, panel. The Smith report is very sketchy on matters relating to external affairs. Michael Keating just mentioned that Spain is on a trajectory that is somewhat similar to Britain's at present in terms of the relationships with sub-state Governments.

Can we look to better practice in other places to find methods that have worked with regard to shared transparency—such as an exchequer board, for example—or ideas for the sort of taxes that sub-states in other federations and quasi-federations are able to call on in order to fund their interests?

- Professor Keating:

On the tax side, many places, such as US states and Canadian provinces, have the ability to tax corporations. The rates tend to converge because of competition, but nevertheless they have those powers. Sometimes, what is more important than changing the headline rate of corporation tax is the way that the tax is used in detail, such as allowances for research and development.

Excise taxes are widely devolved. Vehicle duty cannot be devolved under European rules. Capital gains tax is inheritance tax, and inheritance tax is widely devolved because it is generally on fixed property, which is easy to locate. Road tax is devolved, even in France, which is the most centralised of countries. There are possibilities on land taxation. The review of local taxation will be important in that regard, as it is an opportunity to give local authorities more tax powers. The Scottish Parliament would then be able to tax less, because there would be local responsibility on that.

David Heald knows a lot more than I do about exchequer boards and so on, but there is a lot of transparency in Australia, Canada and Germany, whereas there is not a lot of transparency in Spain, France or Italy. In the former cases, there are arrangements whereby people can see what is going on and there is some kind of common database that both sides share.

- Professor Bell:

There are tax equalisation mechanisms in some states. At the outset, it is important to think about what kinds of differences in taxable capacity a state is prepared to contemplate. In Switzerland, for example, there are massive variations between the cantons. If we have the wider debate in the UK as a whole that Charlie Jeffery has talked about, part of that must be about what differences in taxable capacity and spending capacity are acceptable in a federal state.

- The Convener:

We will spend another 10 or 15 minutes on this issue and then we need to move on to welfare. Linda Fabiani says that she has a very small supplementary on the issue.

- Linda Fabiani (East Kilbride) (SNP):

Yes, it is a tiny question. I am interested in Charlie Jeffery's points about the general requirement for more transparency and the requirement for Scotland not to act in isolation. It strikes me that, as an entity, the UK has always been slow to embrace change. Is there the willingness at nation state level down in Westminster to fully embrace the kind of changes that the panel suggests are required to make all the

component parts of the UK work with the degree of autonomy and transparency that is necessary for success?

- The Convener:

That was a small supplementary, was it? [Laughter.]

- Linda Fabiani:

Yes. The witnesses just need to say yes or no.

- Professor Jeffery:

I can give a small supplementary answer, which is: no, not yet.

There is a proviso. To the extent that the institutional recognition of England in the UK's political system is now being actively considered—there is a lot of partisan tactic in that, but it may well happen in some form or other—that would give the UK-level authorities of Parliament and Government a heightened rationale for distinguishing the UK-wide business that they transact from the English business that they transact.

Once England comes to be considered as a distinct political unit, we can have consideration of the component parts of the UK in a more systematic way than happens now. However, that probably requires England to be disentangled from the UK in the UK Parliament and Government.

- Bill Kidd (Glasgow Anniesland) (SNP):

The discussion has been extremely beneficial for me in trying to get my head around where we stand following the referendum and the Smith commission's deliberations. As I think many people in Scotland will be doing, I am trying to understand where we stand on anything moving forward in the type of timescale that was promised at the time of the referendum or just thereafter.

In his submission, Professor Jeffery says that the draft bill is expected to be introduced by the end of January. There will then have to be substantive debate in the UK Parliament, but that debate will not be finished by the time of the UK elections, next May, and there will then have to be full scrutiny of the bill in the Scottish Parliament. Things seem to be being pushed not into the long grass but into the jungle. Please correct me if I am wrong, but when there is agreement among all parties on a power, such as the power to enable 16 and 17-year-olds to vote, would it be possible for a section 30 order to bring that power forward from the general debate about taxation so that it could be put in place much sooner? If so, can you envisage any other powers being devolved through a section 30 order to see what we can achieve within the timescale, so that most of the people who voted one way or the other in the referendum will be able to see real change taking place?

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- Professor Jeffery:

I will start off, but I will let someone else finish. In his very artful submission, David Bell talks about the "Scotland Act 2015". I think that that is an ambitious timescale for the process that I outline in my paper to have been gone through. As Gordon Brown envisaged when he first set out the timetable, there is no commitment by the UK Government to have a second reading of the draft bill before the UK election, so that

may not happen before then. In those circumstances, a target of 2015 would be extremely tight, and if the process continues into 2016, the election in Scotland could complicate matters. In those respects it may well be sensible, on some matters, to look for opportunities to accelerate the devolution of powers on which there is clear agreement among the signatories to the Smith commission report. I suspect that the power to enable 16 and 17-year-olds to vote is one that could fall into that category, although there may well be others.

- The Convener:

I have a straightforward question for Charlie Jeffery and others. We heard last week from the Secretary of State for Scotland that the process could be concluded by early 2016. In your view, can the legislation be passed by the time of the next Scottish Parliament election? That would be quite important.

- Professor McEwen:

It can, unless the active interventions of one or more players prevent that from happening. There would have to be political motivation to ensure that something was in place before the 2016 election. Spring 2016 is probably a realistic target, although that is just for the legislation—its implementation will be a much longer process.

- Bill Kidd:

One potential area to be devolved earlier is the Crown Estate. Does anyone believe that that could take place within that timescale under this proposal?

- Professor McEwen:

I am not a constitutional lawyer, so I would need to consult on whether that would require primary legislation.

- Bill Kidd:

Thank you.

- Drew Smith (Glasgow) (Lab):

We have had an interesting discussion. I am reminded of the argument that, although the British constitution may not always work well in theory, it has served us reasonably well in practice. Our constitutional status is a contested issue—I think that we hear that in the reactions of my fellow committee members—and that puts us in a different situation from some of the relationships that you have described that exist elsewhere in the world. Although I agree with a lot of what has been said about the need for institutions to be able to demonstrate balance and be seen as fair arbiters in the process, whether it is about taxation, policy or whatever, it would be interesting to know what we can learn either from elsewhere or from your own experience.

Professor Keating said earlier that the issue of independence had been settled in September. It was a very brave thing for him to say in the Scottish Parliament. If I say that in the chamber, it provokes a reaction. It is, frankly, the elephant in the room in this whole issue.

We can of course debate the workability of specific proposals for devolution, but it seems to me that there are two distinct issues. One is that the constitution itself is politically contested, so a resolution to some of this through institutional architecture is unlikely to work. The second issue is incentives. I have no doubt that the Scottish Government genuinely wants to pursue a course through all this that will not leave Scotland disadvantaged. However, it has no incentive to find a constitutional

relationship or constitutional architecture that works, because it does not believe that there should be a UK constitutional framework.

- Professor Keating:

We are not the only country with that problem. It is the dilemma of Canada, Spain and many other countries that are multinational countries in which there is no agreement on where sovereignty lies or on the foundations of the constitution. I am not suggesting that you have to dig all the way down to the foundations to get a consensus on the basis of sovereignty, because you will never get that. What you can do is put that aside and, in the meantime, talk about institutions that work.

I said that the issue of independence was settled; I meant that it was settled for some time into the future—otherwise why have a referendum—but it is not settled for ever. It never will be settled. Even if Scotland became independent, we do not really know what independence would mean and whether we would have our own currency and so on, so there is a whole area of uncertainty there. There are issues that we will never agree on, so we should just put them aside because most of the time they do not matter. That is pragmatism, but principle also comes in, because we have to have institutions that can work in the medium term.

In Canada, they have had two referendums and they have never settled the question of sovereignty for Quebec. However, their institutions are working pretty well because, between referendums, they agree to disagree on sovereignty but accept that, in the meantime, they need to get institutions that work. In Quebec, there has been a strong concentration on institution building. Their attitude is, “We may not have sovereignty, but we will use the powers that we have more effectively.” In Canada as a whole, there has gradually been a greater recognition of diversity and a greater recognition of Quebec. Canada has done things such as sorting out its fiscal equalisation system, which is a huge challenge everywhere; getting agreement on safeguarding the powers of the two levels; and safeguarding provincial powers against federal encroachment.

In those cases and in Scotland, although there is a difference in principle about whether there should be independence, it seems to me that we are looking at two ways of getting to the same destination. There is a broad consensus that Scotland should be self-governing in one way; there is also a broad consensus that it should not be an old-fashioned nation state, because we are going to be part of the European Union, we may have currency union, and there are the six unions that Alex Salmond talked about, of which we would keep five. Therefore, although there is this difference in theory, there is a lot more common ground than you might think from looking at the referendum debate. In that sense, it is the politicians who are obsessed with theories and we academics are often the ones who talk about practical things that can be done, even when people disagree on basic principles.

- Professor Jeffery:

I have an additional point about the idea of the constitution working in practice, even though it is theoretically impossible in the UK. I think that the constitution is being rejected in practice by substantial numbers of people in different parts of the UK. We saw that when 45 per cent of Scots voted yes, in effect, to end that constitutional relationship. That was not enough to win that argument, but it suggests that there is a significant challenge to the legitimacy of the institutions of the UK here in Scotland, which has prompted the process that we are currently going through.

However, it is not just in Scotland that that is happening, because in work that we have done on public attitudes in England to constitutional alternatives to the status quo

in England, we have found that, no matter how we ask the question, the maximum level of support for the status quo is 25 per cent. In other words, the constitution is under challenge not just in Scotland but in other parts of the United Kingdom.

I take that as a prompt to go back to my earlier point. We are thinking here about changing one of the parts, but there are other parts changing alongside. Some recognition of the interaction of the parts is necessary if we are to have a period of stability.

- Professor Heald:

I have a couple of connected points to make. We have not discussed austerity at all this morning but, according to the Institute for Fiscal Studies, about half of the public spending cuts are still to come, which will be transmitted through the Barnett system. The fiscal consolidation is very heavily spending based and we need more than fiscal consolidation if there are going to be tax cuts at the same time. The downward pressures on spending in the next five years are going to be very extreme, which will make it very difficult for the Parliament in setting its budget.

The other important point is about the fiscal equalisation that David Bell mentioned earlier. I find that there is a disturbing tendency for English local government to be moving away from a system of fiscal equalisation that has been going for roughly 150 years. For example, the northern cities of England have been very much more hit by the changes in English local government finance. There is much more of an attitude of “You keep what you kill”, whereas the UK always had a strong commitment at local government level to fiscal equalisation and reasonably equal living standards across the UK. That is a constitutional requirement in Germany. We do not have such a thing here, but there has been an implicit assumption that living standards and public services in different parts of the country should not depart too much from each other.

That raises an issue that came up earlier, which is about Scotland not being on its own. It is really important that one recognises that Wales and Northern Ireland are in significantly different positions from Scotland, which is sufficiently close to the UK average that we do not need to worry too much about tax-base equalisation in terms of income tax. Wales and Northern Ireland have income levels that are way below the UK average, and their income tax revenues will be affected by the UK practice of putting up the personal allowance so much. Increasing the personal allowance has a different effect in the different regions of the UK, depending on their distribution of income.

There is therefore a broader issue about the role of the state and how far spending cuts are going to go, and the extent to which there is a continued commitment to fiscal equalisation. I do not think that we can have income tax devolution in Wales and Northern Ireland without addressing that issue. I agree with the earlier panellists who said that if Scotland is in the room on its own with the UK Government, we are going to find it extremely difficult.

- The Convener:

As Drew Smith no longer wishes to ask a supplementary question, it is Tavish Scott next.

- Tavish Scott (Shetland Islands) (LD):

Sorry for being late, convener. What role do the witnesses think the Scottish Parliament should play in improving the accountability and transparency of the new intergovernmental relationships?

- Professor McEwen:

A bigger one than it does currently.

- Tavish Scott:

It does not play any role in that at the moment, does it?

- Professor McEwen:

Exactly. I read in the Official Report some of the evidence sessions in last week's committee meeting in which there was talk about presenting minutes and so on to the Parliament, but I am not sure that that would get you very far. If there could be a way of having a type of pre-joint ministerial committee meeting with the Parliament, then a post-JMC one, you might then get a bit more insight into the nature of the discussion. I can see why that would be politically quite difficult, though. Unfortunately, the Smith commission was not in any way transparent either. There were reasons for that, and I think that similar reasons will be applied to intergovernmental arrangements as well. However, I think that there is a need for greater oversight by the Parliament, particularly given that greater complexities and interdependencies in intergovernmental relations will become more important, whether or not they become more formalised. I think that there is an important issue here.

11:00

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- Tavish Scott:

I strongly agree with your point. I made the argument that Wales, Northern Ireland and everyone else had to be in the room, in the context of those arrangements. However, would you accept that what we in Holyrood might choose to do might be different from what other Parliaments might do to scrutinise the arrangements?

- Professor McEwen:

Yes. The scrutiny arrangements are a matter for this Parliament. I differ slightly from what others have said. I agree that there is a need not only for stronger multilateral agreements but for bilateral arrangements, because there are specific issues for the Scotland-UK relationship as a result of the settlement.

- Tavish Scott:

Michael Keating, could you give us an international perspective on how these issues are scrutinised by Parliaments in federal systems? Is there a good example that you would care to offer?

- Professor Keating:

No, but there are a lot of bad examples.

- Tavish Scott:

What should we not do, then?

- Professor Keating:

It is a fundamental problem that intergovernmental negotiations tend to be done behind closed doors, even when there are formal arrangements such as the First Ministers conference in Canada or the sectoral conferences in Spain. The real work is not done in front of the media; it is done somewhere else. To relate to Nicola McEwen's earlier point, the more complex the arrangements get and the more you get into governmental policy making, the more of a problem that becomes.

With regard to the capacity of Parliaments to hold Governments to account in relation to European negotiations, the Nordic countries and particularly Denmark give an example of what can be done. Ministers have to come and explain their position to extremely specialised committees that know the dossiers, and those committees report back to the Parliaments. Something like that could be done here for intergovernmental relations. All the arguments about not showing your hand or about confidentiality are just special pleading by Governments that do not want to be held accountable.

In the case of Scotland, I would add that, if the Scottish Government and the Scottish Parliament are going to be given greater responsibilities for European matters and will be participating more fully in the Council of Ministers, the accountability arrangements here will have to be improved, as they were in Westminster.

- Alison Johnstone (Lothian) (Green):

We have been having a discussion on the themes of transparency and how communication has to be better at all levels between various Governments. However, in his opening statement, Professor Keating said that the public do not understand what is in the Smith commission proposals. That is a fair point. We are at the point that we are at today because of a fantastic participative process in which people really got involved in politics. How do you think we might ensure that that wider civic voice is heard on these proposals in the coming months, as we in Parliament scrutinise them? What can we do to ensure that that wider civic voice is not excluded from the discussions?

- Professor Keating:

I have been struck by the fact that the civic groups are still mobilised. They are still interested in Smith and what is happening beyond Smith. They are frustrated by the process, but they are still interested in it. I think that, therefore, there is a capacity to ensure that they are involved. There are vehicles by which that can be done, and it is up to the politicians to ensure that they are included.

We no longer have to go out and shake people up and say, “You’ve got to be interested,” because they are interested. However, if they are not involved in this continuing process in the immediate future, they will go away again. They will be disillusioned and things will be worse than they were before.

There has been talk about constitutional conventions. That is worth thinking about, but I am a little bit sceptical about it because constitutional conventions tend to deal with generalities and are not very good at arriving at compromises. However, they are a good way of setting the agenda and informing citizens about what is happening.

There is talk of a United Kingdom constitutional convention in the next UK parliamentary session. That would be extremely difficult, given all the views on the matters, but it would be a way of debating the issues publicly. There was talk of a constitutional convention in the case of an independent Scotland, but there might be a case for something like that in a situation that is short of independence, to enable people to think about a Scottish constitution. We do not have a constitution. We have the Scotland Act 1998, which is reformed by the Scotland Act 2012, and there are various other bits and pieces of legislation, but we do not have a constitution.

It might be useful to think about having a constitution for Scotland, whether or not we are part of the UK. Once again, you could think about ways of involving civic society in that, with regard to the principles that might underlie that, what kind of rights we might have, whether social entitlements should be included in a constitution and how accountability could be improved. All those things might usefully be discussed, because they will be important whether or not we have independence. Such an approach will not necessarily be as divisive as the referendum, and in any case it might be useful as a way of improving the democratic performance of our institutions.

- Professor McEwen:

One of the reasons why mobilisation and engagement were so successful in the referendum was that people had a decision to make, and they wanted to be informed about and engaged in the process. If you try to mobilise and engage people without giving them any opportunity to influence the outcome, you might get the reverse effect.

There are a number of areas where such an approach might be taken. It might be taken with this process, with discussions about a constitution or, indeed, with moves to devolve power within Scotland, which I know Alison Johnstone is concerned about. However, we have not really had that debate. A lot of things have been said about it, but its implications are not really being discussed. People could be mobilised and engaged in many areas within this Parliament's responsibility, as long as they have an opportunity to affect the outcome.

- The Convener:

Interestingly, we are considering whether to hear from the Scottish Trades Union Congress, the churches and the Scottish Council for Voluntary Organisations in January, and I think that that might be a way in which the committee can help with the discussion that you have referred to and improve the situation.

We have just over 20 minutes left, so we need to move on to the area of welfare.

- Alex Johnstone (North East Scotland) (Con):

Someone said earlier that welfare cuts will transmit themselves through Barnett. It appears that the faith placed in Barnett during the independence debate and then the discussions around the Smith commission could put us in a position where, instead of acting as a crutch, Barnett exposes us to a considerable variation in funding. Do you see the Barnett formula as the support mechanism that some have placed their faith in, or is it a potential elephant trap?

- Professor Heald:

The Barnett formula is not generally related to welfare in the social security sense, because that is annually managed expenditure. What Barnett does, however, is to put certain constraints on how the Treasury can act. Those constraints have operated largely without any public transparency, but they have been constraints all the same. That said, a system such as Barnett has advantages for the Treasury, because it means that it does not need to have bilateral negotiations about everything to do with Scotland, Wales and Northern Ireland. It therefore gives the Treasury some protection, and it speeds up the process after a UK spending review or autumn statement through the consequentials.

If public spending went up and relative population stayed the same, Barnett would result in some convergence in expenditure per head; however, if expenditure went down in nominal terms, Barnett would have the reverse effect. Something such as Barnett is an important protection, but if the UK Government were to decide that the state was going to be a lot smaller, that would certainly come through Barnett. As I have said, however, the social security-type areas that people now tend to call welfare are largely addressed outside Barnett as part of annually managed expenditure.

- Professor Bell:

The way in which Barnett has worked has, I think, helped the Treasury by giving it all the levers to control UK macroeconomic policy. For example, it can control departmental expenditure limits through the spending review process and annually managed expenditure on a year-to-year basis, and on that basis it gets an idea of how much it is going to spend. However, what it has not done very well over the past seven or eight years is to predict how much money it is going to take in, as a result of which we have a yawning gap between the amount that the UK spends and the amount of tax that is being raised.

Although David Heald is right and a process of convergence is built into the Barnett formula, perhaps implicitly, whereby block grant per head would ultimately be the same in all parts of the UK, the rate of convergence has been achingly slow, and decisions about the distribution of spending make a difference to the rate of convergence. I do not think that we will see much convergence over the next few years, because, as I said, the UK Government has decided to protect health spending, which is a much bigger share of Scotland's budget than it is of the budget of the UK as a whole, and schools spending, at a time when the school population in England is rising fast but that is not the case in Scotland. Scotland will do well out of Barnett on both counts.

The welfare effects will come through the UK Government's objective to balance the budget in 2018-19, which involves cuts in the DEL budget and the annually managed expenditure budget. The UK Government is expecting to take £12 billion off the welfare bill. Of course, the issue with that is that pensioner benefits are pretty much protected, and have been so throughout the past five or six years, so the cuts will tend to fall on benefits for people of working age.

- Alex Johnstone:

We talked about taxation, and many of the same arguments could conceivably apply to welfare. The Smith proposals include a wide range of options for bringing in additional benefits or top-ups. How do you perceive that that will work in a practical sense? If the Scottish Government chooses to introduce an additional welfare benefit, will that be used in the assessment for universal credit, for example? How will universal credit payments operate in Scotland when additional benefits are taken into account?

- Professor Bell:

There will clearly need to be agreement on that before Scotland chooses to support new benefits. Without such agreement, if the UK Government is in a position to react against such an approach, the whole process will be undermined and will become self-defeating.

We can perhaps imagine a situation in which a Scotland that has control over some benefits chooses to implement the notion of austerity, which is about getting a more sustainable budget in the long term, by having a different balance between tax increases and spending reductions. It might be possible to move some way along such a path with the powers that Smith proposes.

Even the proposed welfare powers will be a huge challenge for the Scottish Government. There is an interesting question about whether they should be devolved to the Scottish Government or to local authorities. Let us think about council tax benefit, which in England was devolved to local authorities while in Scotland it stayed at Scottish Government level, or about attendance allowance. It is local government that delivers social care policy, so we have one policy—free personal care in people's homes—which is funded by the Scottish Government, and then we have two benefits, attendance allowance and disability living allowance for pensioners, which support the policy objective, in a sense.

There are potentially big gains to be made from introducing some coherence around all of that, but it would be very complex to set up a process in that regard and there would probably be losers as well as gainers. Such issues might present a bigger challenge than some of the tax powers that are proposed.

- Professor McEwen:

Paragraph 55 of the Smith report seems to suggest that, if there are top-ups, new benefits or changes in the areas that are devolved that have financial implications or result in gains within Scotland, they should be financed by the Scottish Government but should not lead to reductions in entitlement in benefits that are reserved. However, that has to be more than a commitment made in good faith; it has to be more than an intergovernmental agreement based on good will. It has to mean something when somebody goes to the claims office or submits their claim online and someone in an office somewhere tries to process it. It has to filter all the way down to that secretary or administrator—or whoever is processing the claim. The challenge is in making it work, which is a long-term process.

- Professor Heald:

What concerns me is that a lot of the discussion about welfare devolution assumes that Scotland will spend more. If Scotland is going to spend more, that will have to be at the expense of something else. On a technical level, I presume that it will be possible for Scotland to ask the Treasury to transfer some of its DEL, say from health, into AME. You can see how that would happen technically, but it would not be politically easy at a time when one has such extreme spending pressures and particular problems in health. It would be possible in a technical sense, if the Treasury was amenable, to get that DEL-to-AME transfer, but the question is on which things you would then spend less of the DEL.

- Linda Fabiani:

The word “coherence” has been used over and over again in relation to the proposals in the Smith commission paper. Do you believe that there is a lack of coherence at the top level between the ability to affect the economy—the macroeconomic stuff that David Bell mentioned—and the ability to use welfare powers? Take, for example, the work programme, and being given the power to help people into jobs but not, in my opinion, the power to create jobs through a more vibrant economy. I would like your views on the sustainability of that. Do you feel—if you are willing to say so—that vital bits are missing that would allow us to have a more sustainable way of working in the future?

- Professor Keating:

We should have started with that kind of question. Right across the western world there is a problem about the relationship between job creation, welfare payments, taxation and economic development. Nobody has it right, but in this country we have certainly got it wrong. Our trading policies are not well linked into job creation or welfare. The incentives are odd and some of the programmes are dysfunctional. It is important that the programmes work together.

Job creation and economic development largely do not happen at UK level; they happen within local labour markets and localised economies. It may well be that some of these things could be more effectively addressed at a Scottish level or a local level, rather than at a UK level.

We need to step back and think about what balance of welfare and taxation powers would be most effective in getting people into work. There is a political consensus that the best way to deal with poverty is to get people into well-paid work. The benefits system cannot solve poverty on its own; it has to be linked into labour markets.

I do not have a blueprint for exactly what powers should be located here, but I am absolutely convinced that we have a dysfunctional system at the moment. If we had the sort of system that has been suggested, there is evidence that it could yield economic benefits. We could have efficiency-enhancing forms of welfare rather than passive welfare. All Governments have tried to get there but none has managed to do it. We could use existing welfare spend much more effectively. Scotland might want to do that in a way that is somewhat different from the rest of the United Kingdom. It would almost certainly want to do it differently from what is happening in the south of England, because labour markets, the way that the economy functions and economic development are quite different there.

We should have started with that question and then asked what the implications are, rather than looking at existing welfare benefits and asking which bits we can devolve back to Scotland. That just risks making matters even worse by making them more complex and less coherent.

- Professor Bell:

I differ a bit from Michael Keating on that point. Scotland has never had more people in work than it has at the moment. There is a real issue about the quality of a lot of the jobs and about living standards, because wages have not been increasing as fast as prices have over the past five or six years. However, many labour markets are operating a lot worse than the Scottish labour market is at present.

The Smith commission does not propose delivery of a whole lot of powers that will give the ability to influence the life chances of people at the bottom end of the income distribution—those who are in work but would like more hours or whose hourly pay is not as high as it might be. The income tax powers are possibly not very relevant to many of those people and the welfare powers over spend are focused mostly on older people. I was a little puzzled by the fact that there is no mention of even a discussion in the commission about the possibility of having some control over the minimum wage in Scotland.

- Linda Fabiani:

Oh, there was.

- Professor Bell:

That power would not necessarily carry a great economic risk and it might have more effect on those people.

The labour market is not doing too badly. The real problem, which is a problem not just in the UK but in the US and most of Europe, is with getting productivity up.

- Professor Keating:

I do not disagree with anything that David Bell has said. My point was that the labour market is not generating high-paid jobs; it is generating low-paid part-time jobs. I think that we are in agreement.

- The Convener:

The professors agree with each other.

- Professor McEwen:

I have a smaller point about coherence, which is on the relationship between the work programme and Jobcentre Plus. Some of the parties' proposals to the Smith commission envisaged a role for the Scottish Government in Jobcentre Plus. I think that the Liberal Democrats wanted that, but it has not materialised in the recommendations. That disjuncture will be problematic as the work programme moves north, which, I am sure, will come with a substantial cut. Also, I suspect that the conditionality issues will keep many people awake at night when we have to try to merge those things.

- Mark McDonald:

One way in which we can reduce welfare spend is to improve the quality of work and the quality of pay, which allows for a reduction in in-work benefits. The Smith commission talks about the ability to top up

benefits and to create new ones. However, there is an absolute link between tax and welfare in that we have to fund things.

Professor Heald spoke about the atrophying of the tax powers that were given when the Parliament was established. Do the witnesses have concerns that, given that the substantial tax that we will have control of is income tax, we will lack the flexibility to provide funding for additional benefits and top-ups, so the power to do that will be one that we have but we do not use in a meaningful way?

- Professor Bell:

Our work suggests that it depends on how people react, and the 42,000 people who are responsible for a large chunk of income tax are crucial in that. A 1p increase in the income tax rate will raise nearly £300 million, while the welfare budget in Scotland is about £16 billion or £17 billion.

You are only going to affect things at the margins unless you are prepared to make substantial use of the income tax power, in which case you will run into the risks that are involved in having a larger neighbour next door that has lower income tax rates. That might end up having a negative effect on potential revenues.

- Lewis Macdonald:

One of the principles that the Smith commission accepted at the outset was that there should continue to be coherence across the UK in the pooling and sharing of resources and the provision of comparable benefits to people who are in similar circumstances in different parts of the UK. Do the Smith proposals achieve that coherence in a way that still allows the Scottish Government and the Scottish Parliament to take initiatives to address issues that are specific to Scotland in welfare and support and in job creation?

- The Convener:

All five witnesses seem to be stumped.

- Professor McEwen:

The proposals do not especially achieve that coherence. The point about coherence was a statement rather than a guiding principle.

Let us go back to what Michael Keating said about starting with the broader issues. If that coherence is the objective, we need to move from there and think about the whole picture and the distribution of powers. However, the approach has all been much more piecemeal and pragmatic in a way. It has been about political compromise rather than the bigger picture.

- Professor Keating:

This is a critical question that came up a lot during the referendum campaign. The Labour Party said that this is a sharing union, which is a coherent concept—we understand what it means. However, what are the practical implications of that? What should be shared?

Should we have the same health service? We do not. Should we have the same unemployment benefits? Perhaps there is a stronger case for that. Should we share pensions? That raises other considerations. There seems to be a widely shared view that we need diversity and some kind of social entitlement, but the difficulty arises when we try to translate that into services and say how much variation is reasonable.

- Professor Bell:

One small point to make is that some benefits are contributory. There is a case for saying that, if people have made the same contribution, they should get the same reward, whether they are in Scotland, England or Spain, as many are. That is an important point.

- Professor Heald:

The test that I would apply is whether Scotland can manage welfare better. There are areas where UK policy has gone haywire, such as in the interface between housing benefit and the provision of council and housing association houses. In the areas where Scotland thinks that it can do better in the long term, there are obvious gains. That might mean taking a short-term hit, but there might be a long-term gain.

The issue that disturbs me most relates to the fact that average political attitudes in Scotland seem to be somewhat different from those in England. If the UK is going to move to a much smaller state with much less provision of public services out of taxes, the extent to which Scotland, Wales and Northern Ireland can differ from that is a concern because of their relative populations.

One of my favourite statistics shows that, when we think about the UK becoming a federation, we should note that Ontario has 35 per cent of the population of Canada and that England has 84 per cent of the population of the United Kingdom. That is a fundamental problem. One of the great difficulties is that this tends to get formulated as a Scotland versus England question, while I am deeply worried about what is happening to the north of England and the Midlands, as well as about the concentration of economic activity and high-paid jobs in south-east England and about the migration of skilled labour from the rest of England to the south-east. England has a massive problem, which is not being recognised.

- The Convener:

Rob Gibson and Linda Fabiani need to go to question time in a few minutes, but we will carry on for a few moments.

11:30

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- Professor Jeffery:

I just want to report some evidence from a survey of public attitudes that we did while the Smith commission was sitting. It throws some light on the discussion and reveals the Scots as somewhat paradoxical.

Over 60 per cent of Scots want welfare devolution, whatever they mean by it. That is a clear majority and we have seen that result in surveys for more than a decade. At least 51 per cent of Scots want the same level of benefits as in the rest of the UK, and 55 per cent think that old age pensions should be paid for by UK-wide taxpayers, whereas 48 per cent think that other welfare benefits should be paid for by UK-wide taxpayers and only 31 per cent think that they should be paid for by Scottish taxpayers.

There is something rather strange about wanting the power, not necessarily wanting to do anything different with it and having a significant contribution from UK-wide taxpayers to finance the benefits. I will leave the committee to puzzle out how to reconcile all that.

- Drew Smith:

It is very interesting to unpack what people mean when they say that they support more powers for the Scottish Parliament. That is at the heart of this.

David Heald said that there seems to be a more sympathetic attitude to welfare in Scotland. Does anyone have any academic evidence on attitudes to welfare in Scotland and whether they are significantly different? The only evidence of which I am aware is that of Professor Curtice, who says that the attitudes in Scotland and the UK are broadly the same.

- Professor Heald:

I did not use the term “welfare”; rather, I referred to the size of the state, which covers health services and education.

- Professor Bell:

We did a survey in which we asked a question about the benefit cap. We found that Scots are slightly more willing to see a higher cap, but the difference was not huge.

- Professor Jeffery:

That is the general finding in public attitudes research. The Scots appear to be a little more left wing on most of those measures, but not by very much. The big difference between Scotland and England is that the Conservative Party is rather weaker here, so there is a different dynamic of political debate, which is not structured in the more straightforward left-right pattern that applies in the House of Commons, which is dominated by MPs from England.

- Drew Smith:

If you could humour me for a moment, convener, I have another question. I would say that it is quite easy to be radical in a political debate about things over which you have no power or responsibility. That is an easy form of radicalism. When Lord Smith was before the committee, he said that there is a need for both Governments to be clearer about what they do. Are there any international examples of that? Do subcentral levels of government that work more effectively than our own have the same tendency to spend time talking about the issues that they do not control?

- Professor Keating:

Yes, they do, and we also find the same paradox that Charlie Jeffery mentioned. There is comparative research—some by Charlie Jeffery and some from elsewhere—on the federalism or devolution paradox that people want to control services but want the levels to continue to be the same as elsewhere. It is not necessarily so paradoxical, because one can legitimately say that one wants to control the services but does not want to lose out on a particular service, as that is the way the question is put. If we asked whether we should be allowed to spend less on roads and more on schools, for example, we might get a different answer.

In any case, public policies come not from public opinion polls but from social compromises among social groups. It is clear that in Scotland the social compromise is a bit different from the compromise in the south of England, although there is evidence that the north of England is a little bit like Scotland. That difference explains why, consistently, the Scottish Parliament—under the coalition Administration and the SNP Administration—has gone for more universalism and less selectivity. That is not necessarily more redistributive, but it is a different way of defining the public domain in which all people should share the same kind of public services.

In Scotland, there is less support for private education, for example. A while ago, we did surveys among professionals that showed that there is less support in the medical

profession for marketisation and less support among the teaching profession for moving away from comprehensive education.

At all levels of society there is a commitment to something that looks a bit more like the arrangements in Nordic countries, where everybody pays in and everybody gets the same services. That is more egalitarian, but not necessarily redistributive. That is where Scotland would probably go, and that is where we see divergences in public policy that need the fiscal space to be realised. Without differences in taxation powers, those policies cannot be realised, except in marginal ways.

- The Convener:

I want to try something novel and see whether I can get a yes or no answer from five professors. If the legislation is passed successfully, will we need to come back in 2016 to do this again?

- Professor Bell:

Yes.

- Professor Heald:

Yes.

- Professor Jeffery:

Yes.

- Professor Keating:

Yes.

- Professor McEwen:

Yes.

- Tavish Scott:

That keeps them all in a job.

- The Convener:

I thank the witnesses for their considered contributions, which we have found very valuable. No doubt we will see some of them again at some stage.

Our next meeting is on Thursday 18 December, when we will hear from the Electoral Management Board for Scotland on the electoral administration of the referendum.

Meeting closed at 11:35.